

Susan E. Firtch, CASB# 154624  
 Eva P. Kwan, CASB# 246034  
 BURNHAM BROWN  
 A Professional Law Corporation  
 P.O. Box 119  
 Oakland, California 94604  
 ---  
 1901 Harrison Street, 11th Floor  
 Oakland, California 94612  
 Telephone: (510) 444-6800  
 Facsimile: (510) 835-6666  
 Email: dwaterr@burnhambrown.com  
 sfirtch@burnhambrown.com  
 ekwan@burnhambrown.com

Attorneys for Defendant  
 MARKEL INSURANCE COMPANY

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

CITI APARTMENTS, INC.; PRIME  
 APARTMENT PROPERTIES, LLC; PRIME  
 PROPERTIES I, LLC; RMSV BAY CITI  
 PROPERTIES I DE, LLC; RMSV BAY CITI  
 PROPERTIES I, LLC; 124 MASON, DE,  
 LLC; TROPHY PROPERTIES, VI, LLC;  
 LRL CITI PROPERTIES I DE, LLC;  
 FRANK LEMBI; WALTER LEMBI;  
 ANDREW J. HAWKINS,

Plaintiffs,  
 v.  
 MARKEL INSURANCE COMPANY; and  
 DOES 1 through 100, inclusive,  
 Defendants.

CITI APARTMENTS, INC., et al.  
 Plaintiffs,  
 v.  
 MARKEL INSURANCE COMPANY; and  
 DOES 1 through 100 inclusive,  
 Defendants.

Nos. C 06 05752 CW  
 C 06-7086

**PARTIES' STIPULATION TO  
 CONTINUE/RESCHEDULE THE 10/11/07  
 CMC DUE TO THE WITHDRAWAL OF  
 THE MOTION TO DISMISS  
 PREVIOUSLY SCHEDULED FOR THE  
 SAME DATE; ORDER**

Date: October 11, 2007  
 Time: 2:00 p.m.  
 Dept.: Courtroom 2, 4th floor  
 Judge: Hon. Claudia Wilken

Complaint Filed: August 21, 2006

1 Pursuant to Local Rule 6-2, Defendant MARKEL INSURANCE COMPANY (“Markel”)  
2 and Plaintiffs CITI APARTMENTS, INC.; PRIME APARTMENT PROPERTIES, LLC;  
3 PRIME PROPERTIES I, LLC; RMSV BAY CITI PROPERTIES I DE, LLC; RMSV BAY CITI  
4 PROPERTIES I, LLC; 124 MASON, DE, LLC; TROPHY PROPERTIES, VI, LLC; LRL CITI  
5 PROPERTIES I DE, LLC, et al.; and FRANK LEMBI; WALTER LEMBI; ANDREW J.  
6 HAWKINS (“Plaintiffs”), by and through their respective attorneys of record hereby request and  
7 stipulate to a continuance of the Case Management Conference (“CMC”) presently sent for  
8 hearing on Thursday, October 11, 2007 (in conjunction with a Motion to Dismiss the first  
9 amended complaint) to Tuesday, October 23, 2007. The CMC needs to be rescheduled because  
10 the Motion to Dismiss has been withdrawn, and stand-alone CMC's are not heard on Thursdays.  
11 Markel is represented by Susan E. Firtch of Burnham | Brown. Plaintiffs are represented by Guy  
12 O. Kornblum of Kornblum & Associates.

13 The request and stipulation are based on the following grounds.

14 1. In its June 11, 2007 order granting Markel’s motion for summary judgment and  
15 Plaintiffs’ motion for leave to file a first amended complaint to bring new claims, the Court set  
16 the hearing date for any motion to dismiss that Markel might file, and a Case Management  
17 Conference (“CMC”), for August 23, 2007 at 2:00 p.m. The date was subsequently continued  
18 by stipulation and order to October 11, 2007.

19 2. The Parties have reached a settlement, including the withdrawal of Markel’s  
20 motion to dismiss, and the eventual dismissal of Plaintiffs’ first amended complaint.

21 3. Markel has withdrawn its motion, and, at the time of the filing of this stipulation,  
22 the parties are still in the process of executing an agreed-upon the written settlement agreement.

23 4. The parties need to participate in the scheduled CMC to resolve final issues, and  
24 effect the entry of final judgment on Markel’s prior motion for summary judgment and dismissal  
25 of the first amended complaint. However, the CMC presently on calendar for Thursday, October  
26 11, 2007, has now become a stand-alone CMC, and needs to be continued to a Tuesday because  
27 the Court does not hear stand-alone CMC’s on Thursdays.

28 ///

5. The parties have conferred, and agreed upon the date of Tuesday, October 23, 2007, 2:00 p.m. for the CMC, with a joint CMC statement to be filed on or before Tuesday, October 16, 2007.

THEREFORE, PLAINTIFFS AND MARKEL STIPULATE AND AGREE TO THE FOLLOWING SCHEDULE:

Filing of Joint CMC Statement on or before: October 16, 2007;

Case Management Conference ("CMC") October 23, 2007.

Based on the foregoing, the parties respectfully request that this Court enter an Order granting the continuance to the dates set forth above.

DATED: 9/25/07

/s/ Susan E. Firtch  
SUSAN E. FIRTCH  
BURNHAM BROWN  
Attorneys for Defendant  
MARKEL INSURANCE COMPANY

DATED: 9/25/07

/s/ Guy O. Kornblum  
Guy O. Kornblum  
Kornblum & Associates  
Attorneys for Plaintiffs

///

**PURSUANT TO THE PARTIES' STIPULATION, IT IS HEREBY ORDERED THAT:**

Because Markel's motion to dismiss has been taken off of the Thursday October 11, calendar, the Case Management conference previously set to be heard concurrently with that motion, is now continued to Tuesday, October 23, 2007 at 2:00 p.m. The joint case management conference statement is to be filed no later than Tuesday October 16, 2007.

DATED: 9/27/07

  
\_\_\_\_\_  
Hon. Claudia Wilken

824744